



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/577,939

12/15/2006

Dominique Loubinoux

290593US6PCT

7533

22850

7590

07/27/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

JUSKA, CHERYL ANN

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

07/27/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No. 10/577,939	Applicant(s) LOUBINOUX, DOMINIQUE	
	Examiner Cheryl Juska	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-28 and 34-44 is/are pending in the application.
- 4a) Of the above claim(s) 26-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/01/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I and Species B in the reply filed on April 27, 2009, is acknowledged. The traversal is on the ground(s) that the claims are interrelated so as to allow examination in a single application wherein said examination does not posed a serious burden to the examiner (Election, page 7, 3rd paragraph and paragraph spanning pages 7-8). This is not found persuasive because the pending product claims 17-25 and 34-44 and withdrawn process claims 26-28 are properly restrictable since the product can be made by a different process than that claimed (e.g., without the steps of depositing on a moving substrate or collecting the material).
2. The requirement is still deemed proper and is therefore made FINAL. Note the claims may possibly be rejoined upon indication of allowable subject matter.

Response to Amendment

3. Applicant's amendment filed April 27, 2009, has been entered. Claims 17-23 and 25 have been amended as requested. Claims 1-16 and 29-33 have been cancelled and new claims 34-44 have been amended. Thus, the pending claims are 17-28 and 34-44 with claims 26-28 are withdrawn as non-elected.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17-24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US 20010032696 issued to Debalme et al.

Debalme discloses a method of making a composite product comprising reinforcing fibers, such as glass fibers, and thermoplastic organic fiber (abstract and section [0001]). The composite product is made by depositing at least 80% by weight of commingled yarns of blended glass fibers and thermoplastic fibers (sections [0013] and [0016]). The yarns may be in the form of continuous filaments forming superposed loops or in the form of chopped fibers (sections [0022] and [0023]). In one embodiment, the chopped fibers may have a length of 38 mm (section [0089]). The yarns of the reinforcing fibers and thermoplastic fibers are bonded together by means of heat and compression (abstract and section [0014]).

Thus, Debalme discloses the invention of claims 17-24 with the exception of the recited elongation at break and porosity. Although the reference does not explicitly teach the elongation and porosity properties, it is reasonable to presume that said properties are inherent to the

Art Unit: 1794

invention. Support for said presumption is found in the use of similar materials (i.e., mat formed of web of commingled yarns of a reinforcing glass fiber and a thermoplastic fiber) and in the similar production steps (i.e., depositing the yarns into a web and bonding said web into a coherent mat) used to produce the mat. The burden is upon applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 495. In the alternative, the claimed elongation at break and porosity would obviously have been provided by the process disclosed by Debalme. Note *In re Best*, 195 USPQ 433, footnote 4 (CCPA 1977) as to the providing of this rejection under 35 USC 103 in addition to the rejection made above under 35 USC 102. Thus, claims 17-24 are rejected as being anticipated by or obvious over the cited prior art.

Claim Rejections - 35 USC § 103

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Debalme reference.

While the reference fails to teach the claimed basis weight, claim 25 is rejected as being obvious over the prior art. Specifically, it would have been obvious to one skilled in the art to a basis weight of at least 700 g/m² in the amount recited by applicant, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Hence, claim 25 is rejected.

8. Claims 34-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Debalme reference.

Art Unit: 1794

While the reference fails to teach stitchbonding the web to bind the mat, it would have been readily obvious to a skilled artisan. Specifically, stitchbonding is a well known method of integrating a web, including fiberglass-based webs, to enhance the mat's dimensional stability. Applicant is hereby given Official Notice of this fact. As such, one skilled in the art would be motivated to employ stitchbonding in order to enhance the dimensional stability thereof. Additionally, it would have been obvious to employ a binder yarn finer than the yarns of the mat in order to minimize the bulkiness of said stitchbonding and to enable a finer stitch density which would further enhance the dimensional stability thereof. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 205 USPQ 215. Therefore, claims 34-37, 39, 40, and 42-44 are rejected as being obvious over the prior art.

Regarding claims 38 and 41, it is reasonable to presume that the properties of elongation and porosity are met by the teachings of the prior art. Support for said presumption is found in the use of similar materials (i.e., mat formed of web of commingled yarns of a reinforcing glass fiber and a thermoplastic fiber) and in the similar production steps (i.e., depositing the yarns into a web and stitchbonding said web into a coherent mat) used to produce the mat. The burden is upon applicant to prove otherwise. Thus, claims 38 and 41 are rejected as being obvious over the cited prior art.

Conclusion

1. Any inquiry concerning this communication or earlier communications from the

Art Unit: 1794

examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached at 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

2. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cheryl Juska/
Primary Examiner
Art Unit 1794

cj
July 23, 2009